IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2160 of 2000
For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NAZIM HUSEN GULAM RASUL SHAIKH
Versus
STATE OF GUJARAT

Appearance:
MR KR RAVAL for Petitioner
MR AJ DESAI Ld. AGP for Respondent No. 1, 2

CORAM : MR.JUSTICE M.R.CALLA
Date of decision: 10/04/2000
ORAL JUDGEMENT

Mr KR Raval for the petitioner.
Mr AJ Desai, learned AGP for the respondents.

The learned counsel argued that the tanker owned by the petitioner which was hired by some party has been seized alongwith the kerosene. The kerosene has already been released but the empty tanker is still lying seized for last three months, and by an order dated 16.2.2000 the petitioner was required to give Bank guarantee to the sum of Rs. 1,50,000/ for the purpose of releasing of the said empty tanker.

Mr AJ Desai learned AGP has placed reliance on the order dated 16.9.1994 passed in Special Civil

Application No. 10414 of 1994, while Mr Raval has placed reliance on the order passed by this Court in Special Civil Application No. 9438 of 1999 dated 24.1.2000. According to these orders, in case, any vehicle is used for carrying the goods or passengers, the owner of such vehicle shall be given an option to pay in lieu of its confiscation a fine not exceeding the market price at the date of seizure of the essential commodity sought to be carried. Even otherwise, since the kerosene has already been released and the price thereof has been deposited in the Government treasury as stated by the learned counsel for the petitioner and not controverted by the learned AGP, the concerned authority shall decide the question with regard to the release of the tanker on the basis of instructions contained in the Government Circular dated 8.4.1999 within a period of two weeks from the date of the certified copy of this order is produced before the said authority and shall pass an appropriate orders on the terms on which tanker is required to be released and requirement of furnishing bank guarantee shall not be insisted upon. The concerned authority shall also have an option for taking solvent surety from the petitioner.

This Special Civil Application is, therefore, partly allowed. Rule is made absolute in the above terms. Direct service is permitted.

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